

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

DAVID SCOTT LYND,

Plaintiffs,

v.

STATE FAIR OF TEXAS, et al.,

Defendants.

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Civil Action No. 3:12-CV-4288-G(BH)

FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Pursuant to Special Order 3-251, this case has been automatically referred for pretrial management. Before the Court is the plaintiff's *Notice of Appeal and Removal to Federal Court*, filed October 25, 2012 (doc. 3). Based on the relevant filings and applicable law, the case should be *sua sponte* **DISMISSED** for lack of jurisdiction.

I. BACKGROUND

On October 25, 2012, the plaintiff filed a two-page document entitled "Notice of Appeal and Removal to Federal Court." He contends he filed his notice of appeal to "invoke the jurisdiction of the Federal Courts and Courts of Appeal" and give "notice of a motion to remove to federal court." He alleges violations of constitutional statutes of both the State of Texas and the United States. The plaintiff also states that his case has been dismissed at all levels, including at trial and on appeal, and he includes the case numbers for the state court appeals in the style of this case. *See also Lynd v. State of Texas*, 2012 WL 92980 (Tex. App.--Dallas Jan. 11, 2012, writ denied).

II. JURISDICTION

"Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute, which is not to be expanded by judicial decree." *Kokkonen v. Guardian*

Life Ins. Co. of Am., 511 U.S. 375, 377 (1994) (citations omitted). They “must presume that a suit lies outside this limited jurisdiction, and the burden of establishing federal jurisdiction rests on the party seeking the federal forum.” *Howery v. Allstate Ins. Co.*, 243 F.3d 912, 916 (5th Cir. 2001). Courts have “a continuing obligation to examine the basis for their jurisdiction.” *See MCG, Inc. v. Great W. Energy Corp.*, 896 F.2d 170, 173 (5th Cir. 1990). They may *sua sponte* raise the jurisdictional issue at any time. *Id.*; *Burge v. Parish of St. Tammany*, 187 F.3d 452, 465-66 (5th Cir. 1999). In fact, Fed. R. Civ. P. 12(h)(3) requires a court to dismiss an action if it determines that it lacks jurisdiction over the subject matter.

The *Rooker-Feldman* doctrine¹ divests federal district courts of jurisdiction over “cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.” *Exxon Mobil Corp. v. Saudi Basic Indus.*, 125 S. Ct. 1517, 1521-22 (2005). “[F]ederal district courts, as courts of original jurisdiction, lack appellate jurisdiction to review, modify, or nullify final orders of state courts.” *See Weekly v. Morrow*, 204 F.3d 613, 615 (5th Cir. 2000) (quoting *Liedtke v. State Bar*, 18 F.3d 315, 317 (5th Cir. 1994)). Under 28 U.S.C. § 1257, only the United States Supreme Court has exclusive jurisdiction to review final judgments or decrees entered by the highest court of a state. Accordingly, “a party losing in state court is barred from seeking what in substance would be appellate review of the state judgment in a United States district court, based on the losing party’s claim that the state judgment itself violates the loser’s federal rights.” *Johnson v. De Grandy*, 512 U.S. 997, 1005-06 (1994). This jurisdictional bar extends even

¹This doctrine is named after *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983) and *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923). These decisions “exhibit the limited circumstances in which [the Supreme] Court’s appellate jurisdiction over state-court judgments, 28 U.S.C. § 1257, precludes a United States district court from exercising subject-matter jurisdiction in an action it would otherwise be empowered to adjudicate under a congressional grant of authority.” *Exxon Mobil Corp. v. Saudi Basic Indus.*, 544 U.S. 280, 290 (2005).

to those cases ““in which the constitutional claims presented . . . are inextricably intertwined with the state court’s grant or denial of relief.”” *Jordaan v. Hall*, 275 F. Supp. 2d 778, 788 (N.D. Tex. 2003) (quoting *Hale v. Harney*, 786 F.2d 688, 691 (5th Cir. 1986)).

Here, the plaintiff specifically seeks review and nullification of final orders of the state courts, and any constitutional claims that he may be presenting are inextricably intertwined with the rulings of the state courts. The *Rooker-Feldman* doctrine therefore divests the Court of subject matter jurisdiction.

III. RECOMMENDATION

The Court should **DISMISS** this action for lack of jurisdiction.

SO RECOMMENDED on this 7th day of November, 2012.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE

INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT

A copy of these findings, conclusions and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge’s findings, conclusions and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Servs. Automobile Ass’n*, 79 F.3d 1415, 1417 (5th Cir. 1996).


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE